

**ORDINANCE NO. 3779**

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES, CLARIFYING THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, SETTING A PUBLIC HEARING, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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WHEREAS, the Washington State Supreme Court in its decision in *Post v. Tacoma*, 217 P.3d 1179 (2009) has determined that code enforcement procedures which provide for continuing penalties without the opportunity for appeal is a violation of due process; and

WHEREAS, Chapter 20.110 ECDC provides for specific notice of violation [ECDC 20.110.040(A)(2)] and of repeat violations [ECDC 20.110.040(B)(2)]; and

WHEREAS, the code enforcement procedures also provide for notice of violation and appeal [ECDC 20.110.040(B) and (C)]; and

WHEREAS, however, ECDC 20.110.040(F) provides for continuing violations with the imposition of a fine without the specific provision for additional notice of hearing; and

WHEREAS, the City Council deems it to be in the public interest to clarify that continuing violations shall be accompanied by additional notice of violation and opportunity for hearing; and

WHEREAS, RCW 36.70A.390 provides for the imposition of interim zoning controls without a public hearing, subject to a public hearing within sixty (60) days; and

WHEREAS, the City Council finds that the potential violation of the due process

rights of its citizens creates an emergency situation requiring its immediate action, NOW,  
THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. There is hereby adopted as an interim zoning control, the following  
revision of ECDC 20.110.040 Enforcement Procedures, (F) Monetary Penalties, to read as  
follows:

**20.110.040 Enforcement procedures.**

...

F. Monetary Penalties. Except for violations for which provisions of Chapter 17.95 ECDC and ECDC 20.110.030(I) provide for another penalty, violations shall be assessed at the rate of \$100 per day or a portion of day thereof, for each and every day after the service of the notice of civil violation. Violations of the provisions of Chapter 17.95 ECDC and ECDC 20.110.030(I) shall be assessed at a fine of up to \$250 per day or a portion thereof following notice of civil violation. The violations Hearing Examiner may also grant an extension of the date upon which fines begin in order to allow for a reasonable period of abatement. Such extension shall not exceed ten (10) calendar days. Following a finding of the Hearing Examiner of the existence of a violation at the appeal hearing on the expiration of the appeal period, continuing fines may be assessed by the provision of additional notice of civil violation pursuant to 20.110.040(B)(2) and an opportunity for hearing. No additional fine for a continuing violation may be assessed without the provision of notice and the opportunity for a hearing.

...

Section 2. Any pending code violation which is subject to the accrual of additional fines based upon a notice of civil violation shall be immediately stayed. At the discretion of the Community Services Director or his/her designee, the staff may provide for either notice of repeated violation pursuant to the provisions of 20.110.040(B)(2) followed by an

opportunity for hearing, or dismissal of the pending code enforcement action and refiling by the provision of a new notice of civil violation under 20.110.040(B).

Section 3. In accordance with the provisions of RCW 36.70A.390, a public hearing shall be held on this ordinance within sixty (60) days of its adoption. The City Clerk is hereby authorized to provide notice of such hearing for the 2nd day of March, 2010 at 7:00 PM before the City Council, or as soon thereafter as this matter may be heard.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

  
MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

  
CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	01-15-2010
PASSED BY THE CITY COUNCIL:	01-19-2010
PUBLISHED:	01-24-2010
EFFECTIVE DATE:	01-29-2010
ORDINANCE NO. <u>3779</u>	

## SUMMARY OF ORDINANCE NO. 3779

of the City of Edmonds, Washington

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On the 19th day of January, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3779. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES, CLARIFYING THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, SETTING A PUBLIC HEARING, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of January, 2010.

  
CITY CLERK, SANDRA S. CHASE

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.



## SUMMARY OF ORDINANCE NO. 3779

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AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES, CLARIFYING THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, SETTING A PUBLIC HEARING, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of January, 2010.

CITY CLERK, SANDRA S. CHASE

Published: January 24, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

## Summary of Ordinance

No. 3779

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

January 24, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

*Jody Groll*

Principal Clerk

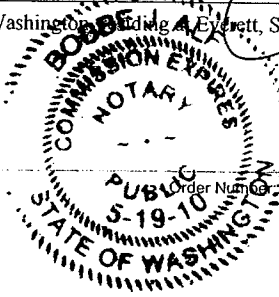
Subscribed and sworn to before me this

25th

day of January, 2010

*[Signature]*

Notary Public in and for the State of Washington, residing in Everett, Snohomish County.



RECEIVED

FEB 02 2010

EDMONDS CITY CLERK

Account Name: City of Edmonds

Account Number: 101416

Order Number: 0001682777